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In re Application of
ROMANOVYCH, et al.
Application No.: 10/070,347
PCT No.: PCT/DE00/02930
Int. Filing Date: 28 August 2000
Priority Date: 28 August 1999
Attorney Docket No.: S04P03US
For: COMPUTER-BASED METHOD FOR
AUTOMATICALLY PROCESSING DATA,
ESPECIALLY MAGNETOCARDIOGRAPHIC
DATA, OF BIOMAGNETIC FIELDS

DECISION ON REQUEST

UNDER 37 CFR 1.42

This is a decision on applicant's "Letter in Response Missing Requirements Under 35 USC 371 Dated 5/10/2002" filed in United States Patent and Trademark Office (USPTO) by facsimile on 10 October 2002. The response is being treated as a request for acknowledgment of status under 37 CFR 1.42. No petition fee is required.

BACKGROUND

On 28 August 2000, applicant filed the international application, which claimed a priority date of 28 August 1999. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of 19 months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 28 February 2002.

On 28 February 2002, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee; an English translation of the international application and a First Preliminary Amendment. An executed oath or declaration of the inventors was not included.

On 10 May 2002, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was afforded two months to file the proper reply and informed that this period could be extended pursuant to 37 CFR 1.136(a).

On 10 October 2002, applicant filed the current papers which authorization to deduct \$460.00 from Deposit Account No.: 50-1199; a petition for a three-month extension of time and a declaration executed by joint inventor Fritz STEINBERG as well as Stella IWANOWA as heiress and legal representative of the deceased joint inventor Stepanowitsch ROMANOVYCH. With the filing of the petition for a three-month extension of time and payment of the extension fee, the papers are considered timely filed.

DISCUSSION

Pursuant to 37 CFR 1.42, first sentence:

"In case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain a patent."

The declaration filed 10 October 2002 was executed by Stella IWANOWA as legal representative of the deceased inventor, Stepanowitsch ROMANOVYCH. However, the declaration is not in compliance with 37 CFR 1.497 (a)-(b) in that it is unclear whether the declaration is setting forth the residence, post office address and country of citizenship of the deceased inventor, Stepanowitsch ROMANOVYCH or the legal representative. Under 37 CFR 1.497(b) the information must be provided for both the deceased joint inventor, Stepanowitsch ROMANOVYCH and the legal representative.

CONCLUSION

Applicant's petition under 37 CFR 1.42 is **DISMISSED, without prejudice**.

Applicants are hereby afforded TWO (2) MONTHS from the mail date of this decision to file an oath or declaration in compliance with 37 CFR 1.497 (a)-(b). Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.42." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to the Assistant Commissioner for Patents, Box PCT, Washington, D.C. 20231, with the contents of the letter directed to the attention of the PCT Legal Office.


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